

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JOEY KIMBROUGH,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY AKA
AMERICAN EXPRESS NATIONAL BANK

and

TRANS UNION LLC

Defendants.

Case No. 1:22-cv-01993-TWP-MJD

**DEFENDANT AMERICAN
EXPRESS NATIONAL BANK'S
RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION TO
STRIKE**

Defendant American Express National Bank (“American Express”) files this Response in Opposition to Plaintiff's Motion to Strike (the “Motion”) [ECF No. 66] and in support thereof states as follows:

1. In the Motion, Plaintiff Joey Kimbrough (“Kimbrough”) seeks for American Express “to provide proof of service for docket entry 64.” Mot. at 3.
2. As stated in American Express’s Notice of Corrected Certificate of Service [ECF No. 65], due to a mistake by undersigned counsel, a copy of docket entry 64 was not sent by email to Kimbrough on Friday, October 13, 2023.
3. American Express corrected the mistake and served docket entry 64 by email to Kimbrough on Monday, October 16, 2023.
4. The record is clear that Kimbrough was not prejudiced by this mistake in service of the court document, as Kimbrough filed both his Motion to Strike and his Omnibus Reply [ECF No. 67] on Monday, October 16, 2023, which was the next business day after American Express

filed docket entry 64 on Friday, October 13, 2023. Kimbrough clearly had notice of docket entry 64 even before American Express filed the Notice of Corrected Certificate of Service.

Accordingly, American Express respectfully requests the Court deny Plaintiff's Motion to Strike.

Dated: October 30, 2023.

Respectfully submitted,

By: /s/ Adam R. Hoock
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Attorneys for Defendant *American Express National Bank*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 30, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and certify that a true and correct copy of the foregoing was provided to all parties and counsel of record.

/s/ Adam R. Hoock
Adam R. Hoock